

FREDERICK COUNTY PLANNING COMMISSION

May 13, 2015

TITLE: **The Preserve At Long Branch PUD
(Formerly Rayburn Property)**

FILE NUMBER: **S-1172 (AP #14857, FRO #14858)**

REQUEST: **Preliminary Subdivision Plan Approval**
The Applicant is requesting Preliminary Subdivision Plan approval for 147 single-family lots on an 80.29-acre site.

PROJECT INFORMATION:

ADDRESS/LOCATION: South side of Baltimore Road and Old National Pike (MD 144), 2,000 feet west of Ijamsville Road.

TAX MAP/PARCEL: TM 78; Parcel 327

COMP. PLAN/LAND USE: Low Density Residential (LDR)

ZONE: Planned Unit Development (PUD)

REGION: New Market

WATER/SEWER: W-4/S-4

APPLICANT/REPRESENTATIVES:

APPLICANT: Hogan Realty Partners, LLC

OWNER: Rayburn Family LTD Partnership

ENGINEER: Dewberry Consultants, LLC

ARCHITECT: N/A

ATTORNEY: Miles and Stockbridge

STAFF: Mike Wilkins

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

- 1 - Preliminary Subdivision Plan
- 2 - FRO Modification Request
- 3 - Parking and Lighting Modification Request

STAFF REPORT

ISSUE

The Applicant is requesting Preliminary Subdivision Plan approval for 147 single-family residential lots on an 80.29 acre parcel that is located south of Baltimore Road and Old National Pike (MD 144) between the Winding Ridge and the Manor at Holly Hills subdivisions. The proposed use is being reviewed as a single-family detached use under the heading of *Residential Uses* per §1-19-5.310 Use Table in the Zoning Ordinance and is a principal permitted use in the PUD Zoning District. No Site Development Plan application is required for single-family detached dwellings in the PUD. The Preliminary Subdivision Plan review is subject to the Subdivision Regulations (Chapter 1-16 of the Frederick County Code). The PUD is subject to the Planned Development Districts regulations in section 1-19-10.500 of the Zoning Ordinance.

Modification Requests

- Increase number of Parking Spaces above minimum required.
- FRO modification to permit the removal of specimen trees.

BACKGROUND

The Rayburn Property rezoning request (R-13-04) was approved and became effective on May 8, 2014 (Ordinance No. 14-03-658) to rezone 80.22 acres to PUD. This approval included the following conditions:

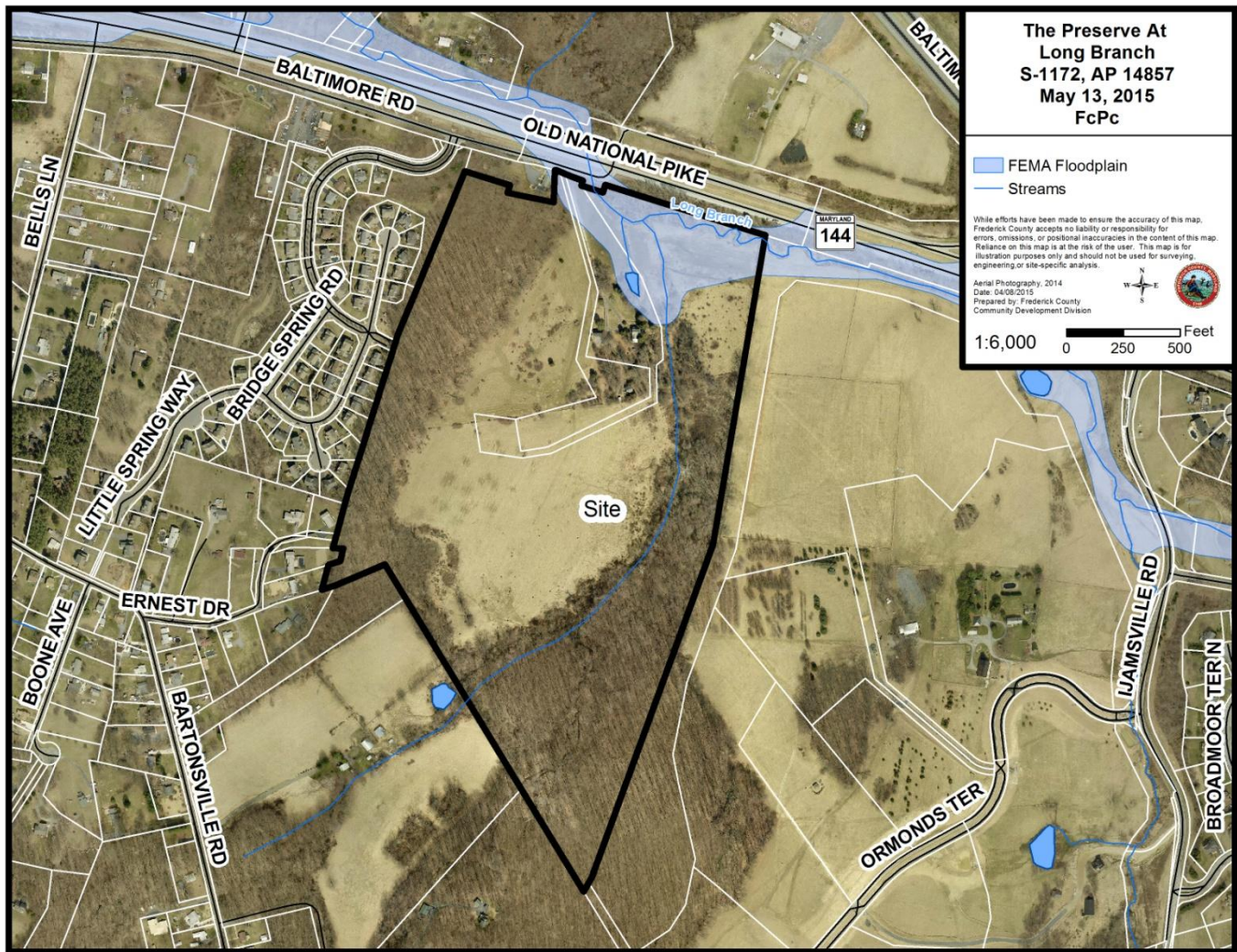
1. A maximum of 160 residential dwelling units may be constructed, plus 1 new lot around the existing historic residential structure, for a total maximum of 161 dwelling units.
2. The trail system located on the large open space parcel shall be constructed prior to the recordation of the 101st lot for the development project.
3. The pocket parks/green spaces located within the development shall be redesigned to provide a centrally located neighborhood park containing at least 20,000 square feet of active recreation space.
4. The forest buffer along the western border of the Property shall be a minimum of 125 feet.
5. The development will consist of 100% single family detached houses.
6. The connection to Winding Ridge Way shall be blocked with a fire gate that will not be removed until acceptance of the roads in the Rayburn PUD by the County.

This development is subject to a Development Rights and Responsibilities Agreement (DRRA), which is dated October 9, 2014 and recorded in the Land Records at L.10241 F.457.

Existing Site Characteristics

Land Use

The Site is currently zoned PUD and is predominantly in open space/agricultural use. The historic T. Stuart Haller House (circa 1820) and associated outbuildings are located in the northern third of the property. The topography of the property is gently to moderately rolling, primarily in the 0-15% slope range, with some areas of moderate (15-25%) slope and small areas of steep (>25%) slope. Two stream systems are located on the property; an unnamed tributary of Long Branch that runs along the eastern portion of the property, and Long Branch that runs along the northern edge of the site. Wetlands (forested, emergent, and open water) are located along the stream systems. Approximately 6.50 acres of FEMA 100-year floodplain is present along Long Branch in the northeast corner of the property. Flooding soils and wet soils are also present along both stream systems. Natural forest cover is present on approximately 36.33 acres of the site and is located along the entire western 1/4th of the site and in the southeast portion of the site. The forest on the southeastern portion of the site includes sensitive aquatic resources and the topographic gradients. Forty-three (43) specimen trees are located on the property.



Existing small-lot residential development served by public water and sewer borders the entire western edge of the subject property (Winding Ridge Subdivision). This existing development is currently zoned R-3 Residential with a Comprehensive Plan designation of Low Density Residential. The existing single family lots range from 7,600 sq. ft. to 18,531 sq. ft. in size, with an average size of 10,226 sq. ft., and a gross density of 2.2 dwelling units per acre.

A large-lot subdivision served by well and septic adjoins the property to the east and is currently under construction (The Manor at Holly Hills). The Manor at Holly Hills is currently zoned R-1 Residential with a Comprehensive Plan designation of Rural Residential. The existing single family lots range from 1.20 to 26.60 acres, with an average lot size of 7.40 acres.

The undeveloped properties located along the southern boundary of the Rayburn Property are currently zoned R-1 Residential with a Comprehensive Plan designation of Low Density Residential.

The historic Grace Trinity United Methodist Church of Christ, which has a Comprehensive Plan designation of Low Density Residential, is situated along Baltimore Road along the northwest corner of the Rayburn Property. North of the property, on the opposite side of MD 144, is a parcel with a Comprehensive Plan designation of Office/Research/Industrial (ORI).

ANALYSIS

Summary of Development Standards Findings and Conclusions

General Site Development and Layout



The proposed development is comprised of 147 single-family detached residences. The Preliminary Plan proposes three access points into the site:

- 1) Baltimore Road, near the intersection of Old National Pike (MD 144);
- 2) Winding Ridge Way. Winding Ridge Way is currently a 4,200+/- foot long dead end road network that serves 66 single family lots. The existing portion of Winding Ridge Way was constructed up to the Preserve at Long Branch property line. The Preserve at Long Branch Preliminary Plan proposes an extension of Winding Ridge Way that would give the Winding Ridge community a much needed second access point with Baltimore Road.
- 3) A future road extension to the property to the south (Four Furies, LLC and Ault properties) is also proposed, which will facilitate a vehicle connection to Bartonsville Road at such time as these adjoining properties are developed.

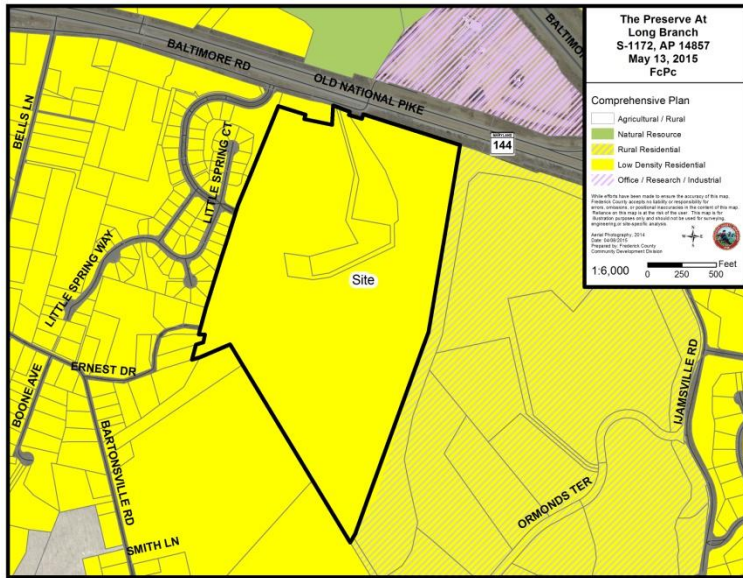
A modified grid/loop street network is proposed, with Hammond Drive serving as the main north/south spine road. All streets will be dedicated to Frederick County as public streets.

The Preliminary Plan application proposes 146 new single-family detached units and 1 lot (Lot #147) for the existing historic house. The 146 new single family lots are front-loading units with lots ranging from 5,408 sq. ft. to 9,639 sq. ft.

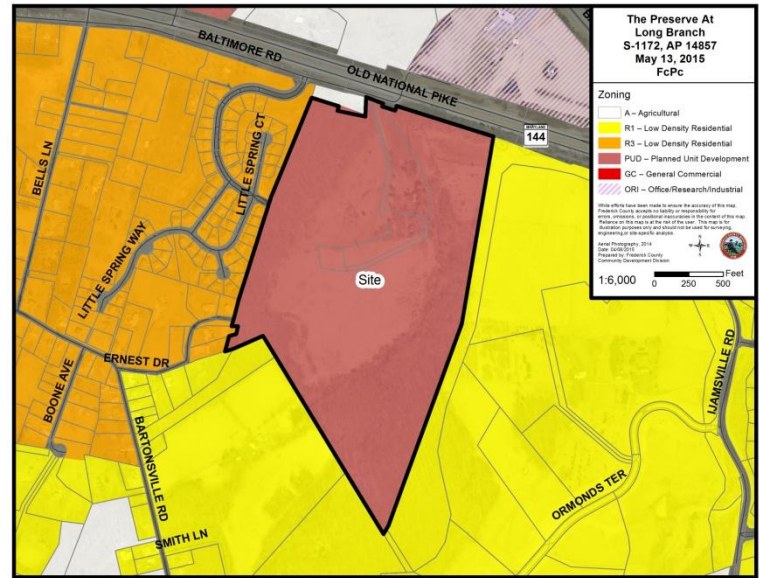
A forest buffer is proposed along the entire western boundary of the subject property, adjacent to the

existing low-density residential uses.

COMPREHENSIVE PLAN



ZONING



Rezoning

The May 8, 2014 (Ordinance No. 14-03-658) rezoning included six conditions.

-Density – A maximum of 160 residential dwelling units may be constructed, plus 1 new lot around the existing historic residential structure, for a total maximum of 161 dwelling units.

Condition Satisfied: Proposed development includes 146 single-family homes plus 1 new lot around the historic residential structure, for a total of 147 dwelling units.

-Trail System – Proposed trail system located on Parcel A shall be constructed prior to the recordation of the 101st lot.

Condition Will Be Satisfied: Note 3.2 on Sheet 1 of the Preliminary Plan documents this requirement. Condition will be met as the project advances towards completion.

-Park – Provide a centrally located neighborhood park containing at least 20,000 square feet of active recreation space.

Condition Satisfied: Proposed Parcel E provides 36,613 sq. ft. of flat, dry recreational space. The park site is easily accessible via trail and sidewalk networks.

-Forest Buffer – The forest buffer along the western border of the Property shall be a minimum of 125 feet.

Condition to be interpreted by the FcPc: At the May 8, 2014 BOCC Public Hearing, the BOCC modified the FcPc's recommended condition, which read "The forest preservation area along the western and southern boundaries of the property shall be increased to a minimum width of 50 feet..."

The Applicant is proposing a variable width 90-105 foot wide forest preservation area, and a 20-35 foot wide forest replanting area, to provide a 125 foot wide forest conservation area. The 20-35 foot replanting area is currently forested, but is proposed to be cleared and graded. Discussion at the public meeting and that fact that the BOCC condition was a modification of the FcPc's original 50 foot forest preservation area leads Staff to believe that the intent of the BOCC's condition was to require a 125 foot wide area of existing forest to be preserved, not a 90-105 foot wide area of preserved forest and a 20-35 foot wide area of newly planted forest. The FcPc must determine if the Applicant's proposed mix of forest preservation and replanting meets the required

125 foot forest buffer.

Should the Planning Commission find that the Applicant's forest buffer proposal meets the intent of the rezoning condition, Staff recommends adding a condition to the approval of this project that no more forest along the western property line shall be removed than is shown on the Preliminary Plan presented to the Planning Commission at this hearing.

-Unit Mix – The development will consist of 100% single family detached houses.

Condition Satisfied: The Preliminary Plan proposes 100% single family detached houses.

-Winding Ridge Way – The connection to Winding Ridge Way shall be blocked with a fire gate that will not be removed until acceptance of the roads in the Rayburn PUD by the County.

Condition Satisfied: A note has been placed on Sheet 3 of the Preliminary Plan identifying the location of the temporary fire gate, with notes stating the gate will be removed when the proposed roads are accepted by the County.

Zoning Ordinance Requirements

§ 1-19-10.500.6 Land Use, Mixture, and Design Requirements within the PUD District.

§1-19-10.500.6(H)(1): Gross Density may not exceed the maximum density specified in the County Comprehensive Plan residential land use designation of the subject property.

Density Proposed in Preliminary Subdivision Plan - 147 single-family detached DUs

Overall gross residential development density of the project is 1.84 DUs/acre and falls below the permitted maximum density of between 3-6 du/ac allowed in a PUD with an underlying land use designation of Low Density Residential.

§1-19-10.500.6(H)(2): Setbacks and height shall be established by the Planning Commission at Phase II consistent with the general development standards as provided in §1-19-10.500.9, reflecting the proposed development pattern and land use within the Phase I project concept plan or portion thereof ...

The proposed lots range from 5,408 sq .ft. to 9,639 sq. ft. in size. The average lot size is 6,553 sq. ft. The Applicant has proposed the following setbacks for Planning Commission review and approval:

	Front	Rear	Side	Height
Single Family Detached Front Loaded:	20'	20'	6'	40'

Building Restriction Lines and building height, as proposed on the Preliminary Subdivision Plan, are consistent with yards and setbacks established in other PUD developments in the County.

§1-19-10.500.6(D): Open Space/Green Space Area Within the PUD District

The Zoning Ordinance requires a minimum 30% of open space/green area for a PUD of this density. Open space/green area may include floodplain, steep slopes, and SWM areas. A minimum of 24.09 acres is required for this project (30% of 80.29 gross acres). The Applicant is providing 49.73 acres of open space/green area. All open space/green areas shall be owned and maintained by the HOA.

§ 1-19-10.500.9 General Development Standards (PUD District)

The configuration of the proposed blocks, lots, and streets meets the standards for land use integration, safety, and convenience established for developments in the PUD District. As previously discussed, dimensional standards are established by the Planning Commission. Lots are configured to orient

buildings toward the street. The proposed common areas are located to maximize proximity and convenience for residents of the proposed development. Sensitive natural areas have been avoided in the laying out of streets and lots in the proposed subdivision. Generally, Staff finds that the general standards for site and building design are met by this Application.

§ 1-19-6.220 Parking Space Requirements and Dimensions

The Zoning Ordinance requires 2 parking spaces for each dwelling unit. County policy is to count each garage space as ½ a space. The Applicant is proposing a combination of on-street and on-lot parking as part of the project. As provided within the Zoning Ordinance, the Planning Commission may grant an increase or reduction in the number of required parking spaces based on characteristics of the proposed use. Total required parking is 294 spaces. The Applicant is providing 2 spaces in each driveway (294 spaces), an attached two-car garage for each new house (which counts as 1 space=146), plus 84 on-street parking spaces, for a total of 524 parking spaces. The on-street parking spaces were added at the request of Staff to provide adequate parking for visitors and guests of the residents. Per § 1-19-6.220(A)(1), an increase in the number of required spaces may be granted by the FcPc where Staff can demonstrate the need based on characteristics of the proposed use. . Staff supports the proposed 524 parking spaces. The Applicant's Parking Modification request is attached to this report.

§1-19-6.320.11 Signage

The Project is proposing a community identification sign, a detail of which is on sheet 7 of the Preliminary Plan. The Zoning Ordinance permits up to 64 sq. ft. of signage, which must not exceed 6 feet in height and must be located 15 feet from all road right of ways. A separate sign permit will be required for review and approval prior to community identification sign placement.

§1-19-6.400 Landscaping

The Zoning Ordinance requires that street trees be provided along the property line adjacent to the paved surface of public rights of way in a planting area no less than 7 feet wide. One tree at least 6 feet in height at the time of planting must be provided every 35 feet.

The Applicant has provided a street tree plan on sheets 9 & 10 of the Preliminary Plan. The plan proposes three different species of native deciduous trees. Trees are to be planted every 35 feet wherever possible within a 8 to 12 foot wide strip between the curb and the sidewalk (see typical road cross sections on sheet 7). A total of 195 street trees are to be planted.

§1-19-6.500 Lighting:

The Applicant has prepared a photometric plan (sheets 12 and 13 of the Preliminary Plan). All of the proposed street lighting shall contain cutoffs to minimize lateral and upward glare, and the mounting height shall not exceed 14 feet (see detail on sheet 7 of the Preliminary Plan). The Zoning Ordinance notes that lighting shall not exceed 0.50 foot-candles as measured from the property line. The lighting plan meets this requirement except at the intersection of Zoe Lane and Baltimore Road, where the foot-candles will be between 0.50 and 0.80. The Applicant has requested a modification to allow this minimal light spillage (see attached modification request). Staff does not object to the modification request.

Zoning Ordinance Requirements Findings/Conclusions: The entirety of the Subject Site is zoned Planned Unit Development (PUD). The Preliminary Subdivision Plan demonstrates the ability to comply with the applicable portions of the Zoning Ordinance. The project will meet all Zoning Ordinance requirements should the Planning Commission grant approval of all modifications as well as the proposed dimensional requirements set forth by the Applicant.

Subdivision Regulation Requirements

Subdivision Regulations – Chapter 1-16: This application is subject to the requirements of the subdivision regulations in Chapter 1-16.

§ 1-16-12 (B)-Road Adequacy:

The Subdivision Regulations require proposed subdivisions to have access to 1 or more paved collector or higher classification roadways either directly, or via continuous and adequate public roads. The proposed subdivision has access to MD 144 via a roughly 150' long section of Baltimore Road. MD 144 is designated a Minor Arterial roadway on the County Comprehensive Plan and Baltimore Road is designated a local road. Emergency response service to the subdivision will be provided by the Spring Ridge Fire Station via Old National Pike.

Major subdivisions are required to have direct access to a publicly maintained roadway with a paved surface of not less than 20 feet. All proposed lots will access publicly maintained roads with continuously paved surfaces of 20 feet in width. The proposed subdivision has access to Baltimore Road, an existing paved local road that exceeds 20 feet in width. Baltimore Road intersects with MD 144 within approximately 150 feet from the subdivision entrance location. MD 144 is a minor arterial, four-lane divided roadway. All proposed streets meet or exceed the 20 foot wide pavement requirement.

§1-16-72(B) (19) (a) Soil Types

The site contains flooding soils and wet soils.

- The flooding soils are located in the eastern portion of the site. A Flooding Soils Investigation Report provided by Delmarva Environmental, Inc. verified the flooding soils boundaries shown on the Preliminary Plan. The flooding soils are entirely within the open space parcel.
- Wet soils are located in the eastern portion of the site. A Wet Soils Evaluation performed by Geo-Technology Associates, Inc. found that gravity drainage systems will be required on Lot 1 and Lots 8-25 to mitigate the possibility of groundwater impacting basements and foundations. The report also recommends sump pumps.

§1-16-109 Street, Common Driveway, and Sidewalk Construction:

- **Streets:** The Subdivision Regulations require closed-section road construction (curb and gutter) where lot widths are less than 80 feet or where lots are less than 15,000 sq. ft. in size. The Applicant is proposing closed section construction as required by subdivision regulations.
- **Common Driveways:** No common driveways are proposed within the subdivision.
- **Sidewalks:** Required minimum width for sidewalks is 4 feet. Proposed sidewalks are 4 feet wide.

§ 1-16-111 Parks

The Subdivision Regulations require 726 sq. ft. of park land dedication for each dwelling unit. Up to 50% of the land area may be steep slopes, streams, lakes, or floodplain. The remaining 50% must be suitable for dry ground recreation, and 50% of the dry ground recreation area must not exceed a grade of 5%.

This proposed subdivision generates a 106,722 sq. ft. (2.45 acres) park area requirement.

Total Park Area Required	Area of slopes, waterbodies, and floodplain allowed	Required 50% dry ground	Required dry ground <5% slope
106,722 sq. ft.	53,361 sq. ft.	26,681 sq. ft.	26,681 sq. ft.

Total Park Area Provided	Area of slopes, waterbodies, and floodplain proposed	Provided 50% dry ground	Provided dry ground <5% slope
109,159 sq. ft.	53,361 sq. ft.	55,798 sq. ft.	47,056 sq. ft.

This project meets the park requirements.

§ 1-16-217 Land Requirements

- **Comprehensive Plan:** *The land use pattern of the comprehensive development plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.* The designated land use in the Comprehensive Plan for the Site of this project is Low Density Residential (LDR). The subject property is located within a Community Growth Area and meets the intent of the applicable land use designation. The subject property is zoned PUD with a proposed subdivision project that meets the intent of the Planned Development District regulations and Phase I rezoning conditions.
- **Existing Features:** *The subdivision design shall take advantage of the uniqueness of the site reflected by the topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.* The subdivision design avoids significant impacts to areas of wet and flooding soils and water bodies. Wooded areas within hydrologically-sensitive areas are preserved, but a significant portion of the wooded area on the west side of the site is impacted. The subdivision design takes advantage of the Site's relationship to adjoining development by proposing a design with vehicular and pedestrian links to the older Winding Ridge subdivision. The development will be well-integrated with surrounding development through the continuation of public streets, a new street connection to the undeveloped parcels to the south, and type of housing.

§ 1-16-218. Block Shape

- *The maximum block length dimension shall be 1,800 feet...* No block dimension is greater than 1800 feet. Pedestrian walkways are provided to enable safe and efficient movement within the Site. Block arrangement within this proposed development is driven to a large degree by existing topography, environmentally-sensitive areas, and existing street connection locations.

§ 1-16-219. Lot Size and Shape

- *Lot dimensions shall not be less than specified in the Zoning Ordinance. Panhandle lots are permitted in major subdivisions only when a modification is granted by the FcPc.* Within the PUD district, dimensional requirements are established by the Planning Commission. The Applicant has proposed overall lot dimensions and configurations similar to those approved in other PUD developments. As previously discussed, the Applicant is requesting setback and height approval for development of the project with this Application. The proposed unit type for this project is a detached single-family dwelling with a maximum building height of 40'. No panhandle lots are proposed as part of the subdivision.

§ 1-16-234. Highways, Streets and Roads

- The Applicant has used the principles laid out in § 1-16-234 of the Subdivision Regulations as a guide in designing the local street network within the proposed subdivision. The design provides interconnections between the planned development,

the existing neighborhood to the west, and undeveloped parcels to the south; minimizes through-traffic movements by creating indirect street linkages, and is suitably designed to accommodate safe, efficient, and convenient use by pedestrians and vehicles.

§ 1-16-235. Right-Of-Way and Paved Surface Widths

- All of the streets proposed as part of this project will be public. The public streets created as a result of the subdivision of this Site – Winding Ridge Way (extended), Haller Place, Guilford Garden Terrace, Stone School Lane, and Zoe Lane - meet the standards of the Subdivision Ordinance in terms of right-of-way width and proposed paved surface width.

§ 1-16-236. Other Street Requirements

- Per § 1-16-236 (K) of the Subdivision Ordinance, the length of cul-de-sac streets may vary based on the density in the development section or land bay, property shape and size, topography, and other aspects of the property and development. The Applicant is proposing two short cul-de-sac streets. Haller Place terminates as a 400+/- foot long cul-de-sac that serves 15 lots. Guilford Garden Terrace terminates as a 220+/- foot long cul-de-sac that serves 6 lots. Neither cul-de-sac is excessively long or serves a large number of lots. Staff has no objection to these cul-de-sacs.
- The Applicant and Staff have worked to provide multiple points of access to the subdivision and to promote connectivity to surrounding development. The main access at Baltimore Road utilizes an existing entrance that will be reconstructed to public street standards to the property. A future point of access is proposed for the extension of Zoe Lane at the time that the adjacent parcel to the south is developed. Winding Ridge Way will be extended as part of the development of the project with a fire gate that will be removed upon acceptance of the roads in the Rayburn PUD by the County. However, Staff has concerns that the main entrance at Baltimore Road is located within the FEMA floodplain. In order to provide a second access for the purposes of redundancy and to eliminate the construction of a dead end street system, a condition has been added to require the Winding Ridge Way connection be constructed and available to vehicles for emergency use prior to issuance of any building permits for lots other than 1-25 and 114-146.

Other Applicable Regulations

Stormwater Management – Chapter 1-15.2:

Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. A SWM Concept Plan has been submitted and is conditionally approved (AP 14859).

Moderately Priced Dwelling Units – Chapter 1-6A:

The Applicant is subject to the MPDU ordinance and will pay a Fee-In-Lieu amount as required. The proposed plan for 147 dwelling units requires a Fee-In-Lieu payment of \$321,562.50. ($147 \times 12.5\% = 18.375$ required MPDUs @ \$17,500/per unit). Payment shall be made at the submission of each building permit application for the dwelling units in the development. The fee to be collected for each building permit is \$2,202.48.

APFO – Chapter 1-20:

All applicable APFO requirements for roads, schools and water/sewer for this project are included in a previously approved (October 9, 2014) APFO Letter of Understanding (LOU) between the Applicant and the Board of County Commissioners.

Schools: The Project is projected to generate 44 elementary school students, 24 middle school

students, and 30 high school students at the time of full build-out. Based on these numbers and considering enrollment projections from pipeline development, the Project will not pass the school adequacy test at the elementary, middle and high school levels. Accordingly, the Applicant has elected the option to mitigate the inadequacy of the public school capacity by paying the School Construction Fees for the elementary, middle and high school levels in accordance with the criteria set forth in Section 1-20-62 of the APFO (and in accordance with the DRRRA).

The Applicant shall pay the School Construction Fee, based upon the fee schedule in effect at the time of subdivision plat recordation and payment, as set forth in Section 1-20-62(E) of the APFO, per unit type for the elementary, middle and high school levels.

Public Water/Sewer: The Site is currently classified S-4 /W-4 on the County's Water and Sewer Master Plan.

Water- An existing 24" water main runs through the Property, constructed under Frederick County Contract # 135-SW. No extensions are necessary and therefore no construction is associated with water service to the Project. Pursuant to Section 1-20-41(E) of the APFO, upon connection of the water main to the Project, the Project shall be considered vested for the water capacity and shall not be subject to further APFO water testing unless the density or intensity of the development increases. Availability of record plats shall be in accordance with the County's current policy for Interpretation of §1-16-106 of the Frederick County Code.

Sewer- An existing 15" sewer main runs through the Property, constructed under Frederick County Contract # 135-SW. No extensions are necessary and therefore no construction is associated with sewer service to the Project. Pursuant to Section 1-20-41(E) of the APFO, upon connection of the sewer main to the Project, the Project shall be considered vested for the sewer capacity and shall not be subject to further APFO water testing unless the density or intensity of the development increases. Availability of record plats shall be in accordance with the County's current policy for Interpretation of §1-16-106 of the Frederick County Code

APFO approval for water and sewer does not guarantee that plats will be recorded or building permits issued. Plat recordation and building permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512 *et seq.* and all applicable County policies and regulations, including but not limited to §1-16-106. Based upon these water and sewer infrastructure improvements, the BOCC has been able to make a determination that public water and sewer facilities will be adequate to serve the Property, however, water and/or sewer capacity is not guaranteed until purchased or otherwise contractually committed (with appropriate guarantees by the Project).

Roads: The Traffic Impact Analysis (TIA) conducted for the project (The Preserve at Long Branch – formerly Rayburn Property) has determined that the Project will generate 122 a.m. peak hour trips and 161 p.m. peak hour trips by the time of full build-out of the Project. The roadway impacts for this Project will be mitigated through improvements and pro-rata contributions to existing County-held escrow accounts in accordance with Frederick County standards. The approved LOU requires the Applicant to contribute to the following improvements as identified in the Rayburn Property TIA in order to mitigate the effects upon the transportation network serving the Project:

The following road improvements shall be guaranteed (permitted) prior to the issuance of the first building permit (except for models) and open to traffic prior to the issuance of the 27th building permit:

1. Applicant shall improve or cause to improve the radius of the acceleration and

The Preserve At Long Branch PUD – Preliminary Subdivision Plan

deceleration lanes on the south side of MD 144 at Baltimore Road. These improvements will include either adding new pavement or pavement markings to help better facilitate these turning movements as determined by the Maryland State Highway Administration ("SHA"). These improvements will not include widening or lengthening the acceleration or deceleration lane along MD 144 unless mutually agreeable to both the Applicant and SHA.

2. Applicant shall improve or cause to improve the existing shoulder along the north side of Baltimore Road so that it is traffic bearing in the area of the proposed site access so that vehicles can bypass left turning vehicles into the Project site. These improvements will not include lengthening or widening the current bypass area, unless mutually agreeable to both the Applicant and County.

Pursuant to Section 1-20-12 of the APFO and in satisfaction of APFO requirements to fully mitigate site-generated trips, prior to the recordation of the first record lot for the Rayburn PUD, the Applicant shall pay into County-held escrow accounts the following pro rata contributions:

1. MD 144 and Linganore Road. The Applicant shall contribute the appropriate pro-rata share to Frederick County for Escrow Account #3936. As determined by the County Traffic Engineer, the Applicant's pro-rata contribution to this road improvement is 2.4% of \$300,000 or \$7,200.

2. I-70/Meadow Road Westbound Ramp. The Applicant shall contribute the appropriate pro-rata share to Frederick County for Escrow Account #3937. As determined by County Traffic Engineer, the Applicant's pro-rata contribution to this road improvement is 1.4% of \$3,000,000 or \$42,000.

3. I-70/Meadow Road Eastbound Ramp. The Applicant shall contribute the appropriate pro-rata share to Frederick County for Escrow Account #3938. As determined by County Traffic Engineer, the Applicant's pro-rata contribution to this road improvement is 2.38% of \$8,000,000 or \$184,000.

4. MD 75 Relocated, South of CSX to Baldwin Road. The Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3891 for the realignment of MD 75. As determined by DPDR-Traffic Engineering Staff, the Applicant's proportionate share of this Road Improvement is 3 trips times \$17,171 per trip or \$51,513.

Therefore, prior to the recordation of any residential plats, the Applicant shall contribute \$284,713 toward 4 escrow accounts. Should any escrow account payments not be made within one year of the execution of the LOU, the County reserves the right to adjust the payment amount, based on an engineering cost index.

Forest Resource – Chapter 1-21:

The Applicant has submitted a Forest Stand Delineation and Preliminary Forest Conservation Plan. The Site contains 35.93 acres of existing forest. The Applicant proposes to clear 9.99 acres of forest, all from the western half of the property. The remaining 25.94 acres of forest is located primarily within the stream valley, wetlands, and flooding soils areas along the unnamed tributary to Long Branch and will be placed under a perpetual forest conservation easement. The required 125 foot wide forest buffer along the western property line (which as currently proposed varies from 90 feet to 105 feet of existing forest and 20-35 feet of newly planted forest) will also be placed under a perpetual forest conservation easement.

The site contains 43 specimen trees (trees that are 30 inches or greater in diameter). Per §1-21-40 of the FRO, nonhazardous specimen trees must be retained unless reasonable efforts have been made to protect them, the plan cannot reasonably be altered, and the FcPc finds that that the requirements for granting a modification have been met.

Nine specimen trees are proposed to be removed. The removal of 2 of these trees has been approved at Staff level: Tree #23 is a 45" Pin Oak in very poor condition, exhibiting a cracked trunk, dead scaffold branches, trunk damage, open wounds, and decay. Tree #29 is a 33" Yellow Poplar in very poor condition, exhibiting a very significant base cavity with root and lower trunk decay and a very weak multi-trunk/leader structure that is predisposed for failure.

The Applicant is seeking a modification of the FRO to permit the removal of 7 specimen trees.

Tree ID #	Size and Species	Location	Condition
1	36" Sugar Maple	Front of Lot 147	fair
25	32" Northern Red Oak	Rear of Lot 46	good
26	32" Chestnut Oak	Winding Ridge Way/ Lot 47	good
27	45" Northern Red Oak	B/w Lot 47 & 48	poor
28	40" Yellow Poplar	Front of Lot 49	poor
30	44" Yellow Poplar	B/w Lot 50 & 51	fair
35	40" White Oak	Opposite intersection of Hammond Dr and Stone School Ln.	fair

The Applicant's FRO Modification Request (see attached) discusses each tree, its condition, and why its removal is proposed.

- Trees #1 and #35 are proposed to be removed due to the alignment of Hammond Drive. The Applicant states that altering the alignment of the road require significant changes to stormwater facilities, lot layout, and road configurations that will result in a reduction to the proposed density of the project.
- Trees #25 and 26 are within the area where Winding Ridge Way is to be extended. Due to the location of the existing end of Winding Ridge Way, there is little flexibility for relocating the road extension.
- Trees #27, 28, and 30 are located within the Haller Place cul-de-sac and adjoining lots. The Applicant claims that preserving these three trees will decrease the density of the project.

§ 1-21-21. MODIFICATIONS.

(A) *Modification requests. A person may submit a request to the Frederick County Planning Commission (FCPC) for a modification from this chapter or the requirements of Md. Code Ann., Natural Resources Article, §§ 5-1601 through 5-1612, if the person demonstrates that enforcement would result in unwarranted hardship to the person.*

(B) *Required information. An applicant for a modification shall:*

(1) *Describe the special conditions peculiar to the property that would cause the unwarranted hardship;*

(2) *Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;*

(3) *Verify that the granting of the modification will not confer on the landowner a special privilege that would be denied to other applicants;*

(4) *Verify that the modification request is not based on conditions or circumstances that are the result of actions by the applicant;*

(5) *Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and*

(6) *Verify that the granting of a modification will not adversely affect water quality.*

(C) *Modification approval. The FCPC must make a finding that the applicant has met the requirements in subsection (B) of this section and that enforcement would cause the applicant unwarranted hardship before the FCPC may approve any modification.*

In order for the FcPc to grant a modification to allow the removal of specimen trees, the FcPc must find;

- that reasonable efforts have been made to protect the specimen trees and that the plan cannot

- reasonably be altered (in accordance with § 1-21-40 (B)(1), and;
- that the Applicant meets the six criteria outlined under §1-21-21 (B).

The Preliminary FRO plan must be approved prior to Preliminary Plan approval. The Final FRO plan must be approved and FRO mitigation must be provided prior to applying for grading permits, building permits, or lot recordation, whichever is applied for first.

Historic Preservation – Chapter 1-23:

The historic house on Lot 147, identified as the T. Stuart Haller House (MIHP # F-5-091) (also known as Sunnymede) is a two-story stuccoed, stone, and frame dwelling originally constructed circa 1820. The house was modified in the 1920's in a Colonial Revival style by T. Stuart Haller, a noted landscape architect in Frederick County during the first half of the 20th century. Several circa 1920's outbuildings are also located near the house. Although this site is not listed on the National Register, preliminary investigation suggests that this house likely possesses local significance under the National Register Criteria for Evaluation.

The Applicant proposes to retain the T. Stuart Haller House. Note 34 on the Preliminary Plan states that the existing historic structures on Lot 147 will not be subject to any architectural requirements or other provisions of the HOA that will compromise the historic integrity of the existing structures.

Findings/Conclusions

Based upon the review and analysis as provided above, Staff finds that the proposed application meets the intent of the Zoning Ordinance, the Subdivision Regulations, the Forest Resource Ordinance, and the conditions set forth in County Ordinance No. 14-03-658 (Rezoning) if the FcPc:

1. Determines that the Applicant's proposed mix of forest preservation and replanting meets the rezoning condition that requires a 125 foot forest buffer, and
2. Grants the FRO modification request to remove 7 nonhazardous specimen trees.
3. Approves parking in excess of the minimum number of spaces required and the requested light spillage.

Summary of Agency Comments

<i>Other Agency or Ordinance Requirements</i>	<i>Comment</i>
<i>Development Review Engineering (DRE):</i>	Conditionally Approved: SWM Concept Plan currently under review. Site will need more stormdrain easements and must provide vehicular access to all SWM easements.
<i>Development Review Planning:</i>	Hold: (pending resolution of items discussed in this report and miscellaneous agency comments)
<i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i>	Conditionally Approved: minor tweaks to sewer easements.
<i>Forest Resource (FRO)</i>	Hold: (pending resolution of FRO modification request and miscellaneous agency comments)
<i>Health Dept.</i>	Conditionally Approved: existing wells and septic must be abandoned.
<i>Office of Life Safety</i>	Approved
<i>DPDR Traffic Engineering</i>	Approved
<i>Historic Preservation</i>	Approved
<i>Street Name Review</i>	Conditionally Approved

RECOMMENDATION

If the Planning Commission approves the three modification requests (increase the number of Parking Spaces above minimum required, light spillage, and the FRO modification to permit the removal of specimen trees) and resolves the rezoning condition regarding the 125 foot forest buffer, Staff has no objection to conditional approval of the Preliminary Subdivision Plan for 147 single family lots.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning and FRO requirements if the three modification requests are granted by the Planning Commission and the following conditions are met:

1. Comply with all agency comments as the plan proceeds through to completion.
2. The FRO plan must be approved prior to Preliminary Plan approval. A Final FRO plan must be approved and the required FRO mitigation must be provided prior to applying for grading permits, building permits, or lot recordation, whichever is applied for first.
3. The project is required to meet the MPDU provisions in accordance with the Frederick County Code. An MPDU agreement must be executed prior to final approval of this Preliminary Plan.
4. Complete the requirements of The Rayburn Planned Unit Development APFO LOU.
5. Comply with all conditions listed in County Ordinance No. 14-03-658 (Rezoning Ordinance).
6. A separate sign permit shall be submitted to the County for review and approval prior to community identification sign placement.
7. A continuous connection between Baltimore Road and Winding Ridge Way shall be constructed and available to vehicles for emergency use prior to issuance of any building permits for lots other than 1-25 and 114-146.
8. Address all agency comments as the plan proceeds through to completion.
9. The Preliminary Plan is valid for the lesser of five (5) years from the date of Planning Commission approval or the period of APFO approval. The LOU is valid until October 9, 2020. Therefore, the Preliminary Plan is valid until May 13, 2020.
10. The historic T. Stuart Haller House is to be retained and the lot created around this house and associated accessory structures shall not be subject to any architectural requirements or other provisions of the HOA that will compromise the historic integrity of the existing structures.
11. No more forest along the western property line shall be removed than is shown on the Preliminary Plan presented to the Planning Commission at the public hearing.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE WITH CONDITIONS AND MODIFICATIONS** as listed in the staff report, the **Preliminary Subdivision Plan S-1172 (AP #14857, FRO #14858)** for the proposed 147 single-family lots within **The Preserve At Long Branch PUD** (formerly Rayburn PUD) development, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.